

REMARKS

Upon entry of the amendments herein, claims 1, 2, 4-15, 17-19, 21, 30, 31, 33 and 34 remain pending the application. Claims 3, 16, 20, 22-29, 32 and 35 have been cancelled; and claims 1, 2, 4-7, 9-15, 17-19, 21, 33, 34 have been amended herein. A number of amendments have also been made to the specification in order to correct inadvertent errors and in the interest of clarity of language. These latter specification amendments were entered by the Examiner in both the parent and grandparent applications.

The present application is a continuation of application Serial No. 10/339,477, which is a divisional of application Serial No. 09/171,575, now U.S. Patent No. 6,548,498. In the '575 application, the Examiner leveled a restriction requirement. The claims allowed in that application recite piperaziny1-substituted indan compounds, i.e., the compounds of formula I wherein X is N. Accordingly, the instant divisional application was filed, and the instant continuation thereof has been filed, in order to resume prosecution of restriction group II drawn by the Examiner in the '575 application. The claims pending in the instant application as a result of this Preliminary Amendment thus recite piperidiny1-substituted indan compounds, i.e., the compounds of formula I wherein X is CH.

Thus, new no matter has been introduced by any of the claim amendments herein. Furthermore, these amendments were accepted by the Examiner in the parent divisional application.

In view of the Examiner's expressed concern, during prosecution of the '575 application, about the length of the original Abstract, said Abstract has been amended herein, primarily by shortening; the amended Abstract herein is identical to the amended one accepted by the Examiner in the '477 application. There can be no question that the revised Abstract meets PTO publication limitations. In light of this shortening of the Abstract, it should be noted that "[T]he abstract shall not be used for interpreting the scope of the claims" (37 C.F.R. §1.72 (b)).

In addition to amending the claims to limit them to subject matter restricted out by the Examiner in the '575 application, Applicants have herein amended the claims in the same way they did in the '575 application to address various 35 USC §112, first and second paragraph issues raised by the Examiner; the Examiner accepted these amendments as remedial in that application. Furthermore, the subject matter claimed herein is free of the prior art, just as is the subject matter allowed in the '575 application. Accordingly, the present application is in condition for allowance, which allowance is respectfully requested. Should any matters require attention prior to

allowance of the application, it is requested that the Examiner contact the undersigned.

No fees should be due in connection with this communication. However, should it be determined that a fee is required for any reason, the Commissioner is hereby authorized to charge it to Deposit Account No. 23-1703.

Dated: January 4, 2005

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard J. Sterner", is written over a horizontal line.

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Enclosure